

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Dino Antolini,

Plaintiff,

-against-

Amy McCloskey, et al.,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 8/7/2020

1:19-cv-09038 (GBD) (SDA)

ORDER

STEWART D. AARON, UNITED STATES MAGISTRATE JUDGE:

Following a telephone conference with the parties held today, and for the reasons stated on the record, it is hereby ORDERED as follows:

1. Defendants' Emergency Letter Motion "requesting a framed-issue hearing for the examination of Plaintiff . . . , under oath, on the subject of whether Plaintiff knowingly authorized [Stuart Finkelstein] to commence the instant action" (ECF No. 60) is DENIED. There is no basis in the Federal Rules of Civil Procedure for holding such a hearing. Nor is there any emergency. When Defendants take the deposition of Plaintiff, they are free to ask questions regarding whether Plaintiff authorized Mr. Finkelstein to commence this action and/or regarding Plaintiff's interrogatory responses. Even if the Court had authority to conduct a "framed-issue hearing," the Court, in its discretion, would decline to conduct such a hearing based upon the present record.
2. No later than August 14, 2020, Plaintiff shall file on ECF interrogatory responses that are sworn to by Plaintiff in compliance with 28 U.S.C. § 1746.

3. The parties shall meet and confer regarding any current or future discovery disputes, as follows:

- a. Forty-eight hours¹ prior to any meet-and-confer telephone call, the party seeking discovery shall send an itemized agenda of the matters to be discussed during the call.
- b. Within forty-eight hours after the meet-and-confer call, the party seeking discovery shall send a letter to his adversary memorializing the issues upon which agreement was reached, as well as any issues in dispute, and set forth the parties' respective positions regarding any disputes.
- c. Within forty-eight hours after receiving his adversary's letter set forth in subparagraph 3.b., *supra*, the party from whom discovery is sought shall annotate the letter with any corrections or modifications and send them to his adversary, and the parties thereafter shall seek to agree on the content of the letter.
- d. If any discovery disputes remain after this process, then the parties shall forward the annotated correspondence to Judge Aaron who shall resolve the dispute based upon the parties' respective positions set forth in the annotated letter.

Paragraph 3 of this Order supersedes the provisions of Judge Aaron's Individual Rules regarding discovery disputes in this case.

¹ Weekend days shall be excluded from calculation of the forty-eight-hour period. For example, a forty-eight-hour period that begins on a Friday will not elapse until the following Tuesday.

SO ORDERED.

DATED: New York, New York
 August 7, 2020

Stewart D. Aaron

STEWART D. AARON
United States Magistrate Judge